

EXHIBIT H

Declaration of Wanda Davis, Director of the Children's Health Insurance Program
for the Alabama Department of Public Health

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

THE STATE OF TENNESSEE, STATE OF
ALABAMA, STATE OF GEORGIA, STATE
OF INDIANA, STATE OF KANSAS,
COMMONWEALTH OF KENTUCKY,
STATE OF LOUISIANA, STATE OF
NEBRASKA, STATE OF OHIO, STATE OF
OKLAHOMA, STATE OF SOUTH
CAROLINA, STATE OF SOUTH DAKOTA,
COMMONWEALTH OF VIRGINIA, AND
STATE OF WEST VIRGINIA,

Plaintiffs,

v.

Case No. 1:24-cv-161-LG-BWR

XAVIER BECERRA, in his official capacity
as Secretary of the United States Department
of Health and Human Services; UNITED
STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES; MELANIE FONTES
RAINER, in her official capacity as the
Director of the Office for Civil Rights;
CENTERS FOR MEDICARE AND
MEDICAID SERVICES; and CHIQUITA
BROOKS-LASURE, in her official capacity as
Administrator of the Centers for Medicare and
Medicaid Services,

Defendants.

DECLARATION OF WANDA DAVIS

Pursuant to 28 U.S.C. § 1746, I, Wanda Davis, duly affirm under penalty of perjury as
follows:

1. I am over 18 years of age, have personal knowledge of the matters set forth herein, and am competent to make this Declaration.

2. I am employed by the Alabama Department of Public Health (“Department”) and serve as the Director of The Children’s Health Insurance Program (“CHIP”). The Department is responsible for administering Alabama’s CHIP and our mission is to promote, protect and improve the health of Alabama’s children by providing access to the care children need to be healthy and reach their full potential. Alabama’s CHIP is a combination program, including children enrolled in its separate program known as “ALL Kids” and children enrolled in a Medicaid expansion program known as “MCHIP”.

3. As Director, I am responsible for the management of Alabama's CHIP, including ALL Kids and MCHIP. As Director, I oversee the day-to-day operations of the program and ensure compliance with state and federal rules and regulations.

4. Alabama's CHIP believes that access to healthcare is vital. To stay healthy and reach their full potential children need regular checkups and immunization, sick child doctor visits, prescriptions, vision and dental care, hospitalization, mental health and substance abuse services and much more. ALL Kids uses Blue Cross Blue Shield of Alabama (“BCBSAL”) to provide medical, mental health and substance abuse services through their preferred provider network (“PPO”). The MCHIP population receives these services through Alabama Medicaid.

5. As of April 30, 2024, approximately 182,300 minors were enrolled in Alabama’s CHIP program.

6. As of fiscal year 2023, Approximately \$368 million in total federal funding was received through Alabama’s CHIP program. It is expected that Alabama’s CHIP program will exceed this amount in fiscal year 2024.


7. Alabama's CHIP program does not provide coverage for gender-dysphoria-related medical procedures on minors. *See* Alabama Vulnerable Child Compassion and Protection Act, Act 2022-289, codified at Ala. Code § 26-26-4.

8. The U.S. Department of Health and Human Services ("HHS") has promulgated new regulations interpreting Section 1557 of the Affordable Care Act's prohibition on discrimination "on the basis of sex" to include "gender identity" and other "sex characteristics." Nondiscrimination in Health Programs and Activities, 89 Fed. Reg. 37,522 (May 6, 2024) ("2024 Rule").

9. If the HHS 2024 Rule referenced above requires state Medicaid programs and other health insurance plans to cover sex-transition surgeries, Alabama risks losing significant federal funding.

10. Avoiding that loss would require Alabama's CHIP program to make changes to its administrative rules. Changing rules is an administratively burdensome process that requires cross-government cooperation and results in the expenditure of state resources. The administrative process for permanent rules, like those that govern the terms of Alabama's CHIP program, is governed by the Alabama Administrative Procedure Act ("AAPA"). Compliance with HHS's new regulations would almost certainly result in an immediate increase of expenditures.

11. If Alabama's CHIP program were required to comply with HHS's new regulations, there would be an immediate increase in state and federal expenditures.


WANDA J. DAVIS

Dated: 6/12/24